



APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
09/27/99 09/27/99, 164	03/26/99	SHERMAN	L TSRI.433.1-D
EXAMINER			

HM22/0621

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DRYTS-M ART UNIT	PAPER NUMBER
1642	1642

DATE MAILED: 06/21/00

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

- ☐ Responsive to communication(s) filed on 5-11-99
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1, 4, 5, 13, 25 is/are pending in the application.
- ☐ Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☐ Claim(s) _____ is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☒ Claim(s) 1, 4, 5, 13, 25 are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☐ Notice of Reference Cited, PTO-892
- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

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compliance

--SEE OFFICE ACTION ON THE FOLLOWING PAGES--

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DETAILED ACTION

SEQUENCE RULE COMPLIANCE.

This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 C.F.R. § 1.821(a)(1) and (a)(2). However, this application fails to comply with the requirements of 37 C.F.R. §§ 1.821-1.825 for the reason(s) set forth on the attached Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures.

Furthermore, each time a sequence is recited either in the claims or in the specification, said sequence is required to be identified with a sequence identification number.

Applicant is given ONE MONTH, or THIRTY DAYS, whichever is longer from the date of this letter within which to comply with the sequence rules, 37 CFR 1.821-1.825. Failure to comply with these requirements will result in ABANDONMENT of the application under 37 CFR 1.821 (g). Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a). In no case may an applicant extend the period for response beyond the SIX MONTH statutory period. Direct the response to the undersigned. Applicant is requested to return a copy of the attached Notice to Comply with the response.

Election/Restriction

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

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- I. Claims 1, 4, 5, drawn to a polypeptide capable of specifically activating cytotoxic T lymphocytes *in vivo*, classified in class 530, subclass 300.
- II. Claim 13, drawn to a a population of specific cytotoxic T cells capable of lysing tumor cells, classified in class 435, subclass 325.
- III. Claim 25, drawn to a method of generating CTL cells that will target a specific population of cells, classified in class 435, subclass 325.

In addition, upon election of any of groups I-III, further election of the following groups is required:

KIFGSLAFL or VMAGVGSPYV.

- 2. The inventions are distinct, each from the other because of the following reasons:

Inventions (I, II) and (III) are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (M.P.E.P. 806.05 (h)). In this instant case, a polypeptide could be used for several purposes, e.g. for activating T cells, for making antibodies, and for making an affinity column to purify its antibodies; a population of specific cytotoxic T cells could be used for *in vitro* assays, for identifying target cells, and for killing target tumor cells.

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Furthermore, the sequences KIFGSLAFL or VMAGVGSPYV are patentably distinct because they are structurally distinct, and could activate different, specific subpopulations of cytotoxic T cells.

Because these inventions are distinct for the reason given above, and because the searches for the groups are not co-extensive, restriction for examination purposes as indicated is proper.

Applicants are required under 35 USC 121 to elect a single disclosed group for prosecution on the merits to which the claims shall be restricted.

Applicants are reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 C.F.R. 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 C.F.R. 1.48(b) and by the fee required under 37 C.F.R. 1.17(h).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Minh-Tam B. Davis whose telephone number is (703) 305-2008. The examiner can normally be reached on Monday-Friday from 9:30am to 3:30pm, except on Wednesday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tony Caputa, can be reached on (703) 308-3995. The fax phone number for this Group is (703) 308-4227.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0916.

Minh-Tam B. Davis

June 15/2000

Susan Ungar
Primary SUSAN UNGAR
PATENT EXAMINER

NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES

Applicant must file the items indicated below within the time period set the Office action to which the Notice is attached to avoid abandonment under 35 U.S.C. § 133 (extensions of time may be obtained under the provisions of 37 CFR 1.136(a)).

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

- ☒ 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to the final rulemaking notice published at 55 FR 18230 (May 1, 1990), and 1114 OG 29 (May 15, 1990). If the effective filing date is on or after July 1, 1998, see the final rulemaking notice published at 63 FR 29620 (June 1, 1998) and 1211 OG 82 (June 23, 1998).
- ☐ 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).
- ☒ 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).
- ☐ 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing."
5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).
- ☐ 6. The paper copy of the "Sequence Listing" is not the same as the computer readable form of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).
- ☐ 7. Other: _____

Applicant Must Provide:

- ☒ An initial or substitute computer readable form (CRF) copy of the "Sequence Listing".
- ☒ An initial or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification.
- ☒ A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (703) 308-4216

For CRF Submission Help, call (703) 308-4212

Patent Software Program Support

Technical Assistance.....703-287-0200

To Purchase Patent Software.....703-306-2600

PLEASE RETURN A COPY OF THIS NOTICE WITH YOUR REPLY